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FISCAL IMPACT STATEMENT

LS 6852

BILL NUMBER: HB 1392

NOTE PREPARED: Mar 21, 2006

BILL AMENDED: Mar 14, 2006

SUBJECT: Life and Health Guaranty Association.

FIRST AUTHOR: Rep. Ripley

FIRST SPONSOR: Sen. Paul

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *School Corporation Insurance:* This bill amends HEA 1006-2006 concerning school corporation pooling for insurance to require creation of a trust, specify the aggregate retention and school corporation contribution levels, and maintenance of a fidelity bond.

Commercial Policyholder: The bill (a) defines "commercial policyholder" to include a business, nonprofit, or governmental entity that purchases a commercial policy; (b) removes certain requirements concerning commercial insurance issued by an insurer that maintains a certain rating; (c) changes reporting requirements for insurers concerning commercial insurance; and (d) repeals a provision that requires an insurer that insures a public entity as an exempt commercial policyholder to maintain a certain rating.

Foreign or Alien Insurance Company: The bill requires a foreign or alien insurance company that provides certain surety bonds to appoint the Commissioner of the Department of Insurance (DOI) as the company's agent for service of process in certain actions.

Life and Health Insurance Guaranty Association: This bill amends the Life and Health Insurance Guaranty Association Law. It specifies certain information concerning: (1) association coverage for Indiana residents and nonresidents insured by domestic and nondomestic insurers; (2) association accounts; (3) assessment procedures; (4) subrogation; (5) powers and duties of the association, the board of directors of the association, and the Commissioner of the Department of Insurance with respect to the association; (6) plan of operation of the association; (7) prevention of insolvencies; (8) immunity; and (9) notice to policy owners and contract owners. The bill also repeals and replaces provisions concerning association coverage. The bill amends the definition of "annuity contract" for purposes of the Indiana Life and Health Guaranty Association Law.

Catastrophic Liability Fund: The bill allows certain members of the Political Subdivision Catastrophic Liability Fund to withdraw from the fund and receive a rebate of part of the member's previous assessments.

Effective Date: Upon passage; July 1, 2006.

Explanation of State Expenditures: *Life and Health Insurance Guaranty Association:* IC 27-8-8-3 established the nonprofit Indiana Life and Health Insurance Guaranty Association. To transact insurance in Indiana an insurer must be a member of the association. If a member insurer is found to be insolvent and is ordered to be liquidated by a court, the Association Act enables the association to provide protection (up to certain limits) to residents who are holders of life and health insurance policies and annuities issued by the insolvent member insurer.

The association is under the supervision of the DOI Commissioner. However, from the assessments each insurer pays, the association pays administrative costs and general expenses incurred by the Commissioner in supervising the association. To this extent the bill would not have an impact to the state.

Foreign or Alien Insurance Company: The bill requires a foreign or alien insurance company that provides certain surety bonds to appoint the Commissioner of the DOI as the company's agent for service of process in certain actions. This provision will have no fiscal impact.

Commercial Policyholder: The provision will have minimal fiscal impact on the DOI.

Catastrophic Liability Fund: This bill allows certain members of the Political Subdivision Catastrophic Liability Fund to withdraw from membership and receive a rebate of prior assessments. It provides for a release from liability for the withdrawing member and the fund. The fund commission must pay a rebate to a member at any time the reserve account exceeds the \$5 M balance required. Currently, the fund has a balance of about \$8 M. The member that wishes to withdraw wishes to receive a rebate of approximately \$3 M. The bill provides that a member may elect to receive a one-time rebate of 15% of the member's prior assessments, not to exceed \$1 M. (See *Explanation of Local Expenditures* below.)

Explanation of State Revenues: *Life and Health Insurance Guaranty Association:* The bill also changes the manner in which tax credits may be taken by a member insurer to offset assessments in the event that the member insurer ceases doing business in the state. Currently, an insurer may take a credit against either the Insurance Premium Tax, the Adjusted Gross Income Tax, or a combination of the two, in order to offset assessments imposed by the Association. The amount of the credit allowed in any year is a maximum of 20% of the total assessment until the entire assessment has been offset. Currently, in the event the member insurer ceases doing business in the state, the amount of any remaining assessment for which the insurer has not taken a credit would be lost to the insurer for the purposes of the tax credit. This bill provides that for an insurer that ceases doing business in the state and that still has a remaining amount of assessment may take the entire remaining amount of assessment as a tax credit for the year the insurer ceases doing business, without regard to the 20% limitation.

According to the Life and Health Insurance Guaranty Association, assessments are only imposed when there is an insurance company liquidation. Consequently, there has not been an assessment in the last seven or eight years, and no insurance company is known to have any remaining amount of assessment for which a credit may be taken. An impact to state revenues would be limited and would only occur if, in the future, there was a liquidation with a subsequent assessment, and a member insurance company ceased doing business in the state

before having used up all of the tax credits associated with that assessment.

Commercial Policyholder: Providing that certain entities will not have to file will have minimal fiscal impact on filing fees collected by the DOI. Fees are deposited into the DOI fund.

Explanation of Local Expenditures: *Catastrophic Liability Fund:* This bill allows a high-risk member of the Political Subdivision Catastrophic Liability Fund to withdraw from membership of the fund. Allowing the member to withdraw could affect local expenditures for those units who belong to the fund to the extent that if the high-risk member is no longer a part of the fund, premiums for other local units could remain constant for the upcoming year or not increase as much as they would have had the high-risk member remained with the fund.

School Corporation Insurance: Under the bill, school corporations that decided to pool assets for insurance coverage would be required to create a trust for pooled coverage. A trust would be required to be regulated by the Department of Insurance. A trust would be required to obtain stop-loss insurance with aggregate retention of not more than 125% of the amount of claims expected in a given year. The insurance would have to be purchased from a provider authorized to conduct business in Indiana.

A pooling trust could be examined by the Department of Insurance. All examination costs would be charged to the trust.

Pooling of insurance coverage across several school corporations could reduce the cost for schools to provide insurance.

Explanation of Local Revenues: *Catastrophic Liability Fund:* This bill allows a Lake County member of the Political Subdivision Catastrophic Liability Fund to withdraw from membership of the fund and to receive a rebate. The bill provides that a member may elect to receive a one-time rebate of 15% of the member's prior assessments, not to exceed \$1 M. The member has elected to self-insure.

State Agencies Affected: Department of Insurance.

Local Agencies Affected: Political subdivisions.

Information Sources: Carol Cutter, Deputy Commissioner for Health Issues, DOI, 232-5695; Cindy Donovan, Financial Division, 232-2408, DOI; Jan Funk, Indian Life and Health Guaranty Association, (317) 692-0574.

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